

Food safety is a shared responsibility of the USDA and the FDA

Food Safety, including food recalls and alerts, is one of the more important issues that we cover in this column. The United States Department of Agriculture Food Safety and Inspection Service (USDA-FSIS) is responsible for recalls involving meat (including fish of the order Siluriformes), poultry, and processed egg products (<https://tinyurl.com/y9v6lr76>). Recalls and alerts for all other food products are issued by the Food and Drug Administration (FDA) (<https://www.fda.gov/Safety/Recalls/default.htm>, under the filters click on Food under the “Filter by Recall Type” drop-down menu).

Access to a single listing covering recalls and alerts issued by both agencies can be found on the [Foodsafety.gov](https://www.foodsafety.gov) website at <https://tinyurl.com/ybjb7jtb>. Those interested in automatically receiving all recall notices can sign up for them by clicking on the tab in the left-hand column marked “Get Automatic Alerts.”

A wide range of situations result in the decision by the USDA-FSIS or FDA to issue the recall of a food product. Many recalls do not result in any identified consumer illnesses. The reasons for issuing a recall range from “misbranding and an undeclared ingredient” to “possible E coli O26 contamination.” Public health alerts are issued for Class I recalls when there has been a suspected or documented outbreak of an illness related to contamination of a food product.

At present, in the case of Class I recalls, the USDA-FSIS issues a list of retailers who have received the product that is the subject of the recall. The agency cautions that “lists may not include all retail locations that have received the recalled product or may include retail locations that did not actually receive the recalled product. Therefore, it is important that you use the product-specific identification information in the news release, in addition to this list of retail stores, to check meat or poultry products in your possession to see if they have been recalled.”

On September 27, 2018 the FDA issued “Public availability of lists of retail consignees to effectuate certain human and animal recalls Guidance for industry and staff” (<https://tinyurl.com/y8274dqf>) for a 60 day comment period. The FDA writes: “This draft guidance, when finalized, will represent the current thinking of the Food and Drug Administration's (FDA, we, or Agency) on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. To discuss an alternative approach, contact the FDA staff responsible for this guidance as listed on the title page.”

In the introduction the FDA writes, “This guidance provides information on how and when FDA intends to publicize the identities of retail consignees that may have received recalled human or animal foods. FDA will primarily focus on those recalls where there is a reasonable probability that the use of, or exposure to, the food will cause serious adverse health consequences or death to humans or animals, which are also referred to as Class I recalls, and where providing such information is needed to help consumers identify recalled food.”

The FDA notes that “In some recalls, identifying “retail consignees” may reveal confidential business relationships between suppliers and customers which may be confidential commercial information (CCI), the disclosure of which is restricted by law and FDA regulation.”

The “FDA believes that publicizing retail consignee lists for the recalls described in this guidance will help consumers to identify recalled food (including recalled food associated with

foodborne illness) and to determine whether that food is in their possession as effectively and quickly as possible, and therefore is necessary to effectuate such recalls.”

In addition, by making the lists available, the identification of retail outlets for recalled food items allows those retailers to notify their customers who have purchased one of those products. This is especially true for those retailers who have loyalty card programs and have the computer capacity to keep track of each customer’s purchases in order to provide them with coupons for items they regularly purchase. On several occasions, our register tapes have included information on a recalled item that we have purchased and have indicated that if we have not already consumed this product, we can return it to the store for a full refund.

While there are times that we are concerned about the large amount of data that various retailers compile on our every purchase, in cases like food safety recalls, we see a beneficial use for that data. We would hope that when the FDA draft guidance on food safety recalls has been approved, those retailers who are already compiling purchasing data on their consumers will integrate the recall information into their systems and notify their customers of the recall.

Certainly, general press releases by the agencies in the case of widespread Class I recalls are important in making the public aware of the problem. At the same time targeted notices on register tapes of those customers who have purchased the recalled product will go a long way toward reducing the number of people who become ill from the consumption of tainted foods. We hope that all retailers will use the retailer lists provided by the USDA-FSIA and the FDA to protect their customers from contracting a food-borne illness.

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